

Appellate Docket Number: 10-17-00029-CV

Appellate Case Style: Sandra K. Bullard v. Rebecca Ann Stifflemire and Larry Stifflemire

DOCKETING STATEMENT (CIVIL)

**Tenth Court of Appeals
McLennan County Courthouse
501 Washington Ave., Rm 415
Waco, Texas 76701-1373
(254) 757-5200**

FILED IN
10th COURT OF APPEALS
WACO, TEXAS
2/8/2017 2:52:34 PM
SHARRI ROESSLER
Clerk

[to be filed in the court of appeals upon perfection of appeal]

I. Parties (TRAP 32.1(a), (e)):	
Appellant(s): Sandra K. Bullard (See note at bottom of page)	Appellee(s): Rebecca Ann Stifflemire and Larry Stifflemire (See note at bottom of page)
Attorney (lead appellate counsel): Tyler Talbert Scanes & Routh, LLP	Attorney (lead appellate counsel, if known; if not, then trial counsel): Laura Upchurch Moorman, Tate, Haley, Upchurch & Yates, LLP
Address (lead counsel): 7901 Fish Pond Road, Suite 200 PO Box 20965, Waco, Texas 76702	Address (lead appellate counsel, if known; if not, then trial counsel): 207 E. Main Street PO Box 1808 Brenham, Texas, 77834
Telephone Number: (254) 399-8788	Telephone Number: (979) 836-5664
Fax Number: (254) 399-8788	Fax Number: (979) 830-0913
Email: talbert@scanesrouth.com	Email: upchurch@moormentate.com
SBN (lead counsel): 24088501	SBN (lead counsel): 00785131
If not represented by counsel, provide appellant's/appellee's address, telephone number, and fax number. On Attachment 1, or a separate attachment if needed, list the same information stated above for any additional parties to the trial court's judgment.	

II. Perfection Of Appeal And Jurisdiction (TRAP 32.1(b), (c), (g), (j)):	
Date order or judgment signed:	Date notice of appeal filed in trial court:
January 17, 2017	January 27, 2017
(Attach a copy showing signature, if possible) Ex. A	(Attach file-stamped copy; if mailed to the trial court clerk, also give the date of mailing) Ex. B
What type of judgment? (e.g., jury trial, bench trial, summary judgment, directed verdict, other (specify))	Interlocutory appeal of appealable order:
Bench Trial – Final Judgment	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If money judgment, what was the amount?	(Please specify statutory or other basis on which interlocutory order is appealable) (<i>See</i> TRAP 28)
N/A – No money judgment	
Actual damages:	Accelerated appeal (<i>See</i> TRAP 28):
	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Punitive (or similar) damages:	(Please specify statutory or other basis on which appeal is accelerated)
Attorneys' fees (trial):	
Attorneys' fees (appellate):	Appeal that receives precedence, preference, or priority under statute or rule?
Other (specify):	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
	(Please specify statutory or other basis for such status)

Appeal from final judgment? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Does judgment dispose of all parties and issues: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Does judgment have a Mother Hubbard clause? (E.g.: "All relief not expressly granted is denied"): Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Does judgment have language that one or more parties "take nothing"? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Other basis for finality?	Will you challenge this Court's jurisdiction? If yes, explain.
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III. Actions Extending Time To Perfect Appeal (TRAP 32.1(d)):			
Action	Filed Check as appropriate		Date Filed
Motion for New Trial	No <input type="checkbox"/>	Yes <input type="checkbox"/>	
Motion to Modify Judgment	No <input type="checkbox"/>	Yes <input type="checkbox"/>	
Request for Findings of Fact and Conclusions of Law	No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/>	January 26, 2017
Motion to Reinstate	No <input type="checkbox"/>	Yes <input type="checkbox"/>	
Motion under TRCP 306a	No <input type="checkbox"/>	Yes <input type="checkbox"/>	
Other (specify):	No <input type="checkbox"/>	Yes <input type="checkbox"/>	

IV. Indigency Of Party (TRAP 32.1(k)): (Attach file-stamped copy of Statement of Inability to Afford Payment of Court Costs, and a copy of the trial court order.)				
Event	Filed Check as appropriate		Date	N/A
Statement of Inability to Afford Payment of Court Costs filed?	No <input type="checkbox"/>	Yes <input type="checkbox"/>		
Motion Challenging the Statement filed in trial court?	No <input type="checkbox"/>	Yes <input type="checkbox"/>		
Any hearing on appellant's ability to afford court costs?:	No <input type="checkbox"/>	Yes <input type="checkbox"/>		
Did trial court sign an order under Texas Rule of Civil Procedure 145?	No <input type="checkbox"/>	Yes <input type="checkbox"/>		
If yes, trial court finding on Challenge:	Challenge Sustained <input type="checkbox"/>	Challenge Overruled <input type="checkbox"/>		

V. Bankruptcy (TRAP 8):	
Will the appeal be stayed by bankruptcy? No	Date bankruptcy filed?
Name of bankruptcy court:	Bankruptcy Case No.:
Style of bankruptcy case:	

VI. Trial Court And Record (TRAP 32.1(c), (h), (i)):					
Court: 21st Judicial District		County: Burleson	Trial Court Docket Number (Cause No.): 28-310		
Trial Judge (who tried or disposed of case): Honorable Carson Campbell Telephone Number: (include area code) (979) 567-2361 Fax Number: (include area code) (979) 567-2382 Address: 100 W Buck St # 303, Caldwell, TX 77836		District/County Clerk: Dana Fritsche Telephone Number: (include area code) (979) 567-2336 Fax Number: (include area code) None provided Address: 100 W Buck St # 303, Caldwell, TX 77836			
Clerk's Record Yes <input checked="" type="checkbox"/>	Sworn copy for accelerated appeal Yes <input type="checkbox"/> (See TRAP 28.3)	Will request <input type="checkbox"/> (Note: No request required under TRAP 34.5(a), (b)) Was requested on: February 8, 2017	Clerk's fee has been paid or satisfactory arrangements have been made: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If no, explain:		
All court reporters/records who recorded any portion of the record must be listed: <table border="0" style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;"> Court Reporter/ Recorder: Terri Robason, CSR 6029 Telephone Number: (include area code) (832)264-8009 Fax Number: (include area code) None Provided Address: None Provided </td> <td style="width: 50%; vertical-align: top;"> Court Reporter/Recorder: Telephone Number: (include area code) Fax Number: (include area code) Address: </td> </tr> </table>				Court Reporter/ Recorder: Terri Robason, CSR 6029 Telephone Number: (include area code) (832)264-8009 Fax Number: (include area code) None Provided Address: None Provided	Court Reporter/Recorder: Telephone Number: (include area code) Fax Number: (include area code) Address:
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Length of trial (approximate): 1 Day		Reporter's fee has been paid or satisfactory arrangements have been made: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If no, explain:			
Reporter's or Recorder's Record (check if electronic recording <input type="checkbox"/>)	None <input type="checkbox"/>	Will request <input type="checkbox"/>	Was requested on: February 8, 2017		

VII. Nature Of The Case (TRAP 32.1(f)) (Subject matter or type of case: E.g., personal injury, breach of contract, workers' compensation, or temporary injunction) (*see* list below): **Breach of Contract; Real Property.**

Administrative/agency _____	Malpractice Legal _____ Medical _____ Other _____
Banking _____	Motor Vehicle _____
Business _____	Municipal _____
Condemnation _____	Oil & Gas _____
Consumer/DTPA _____	Personal Injury _____
Construction _____	Premises Liability _____
Contract <input checked="" type="checkbox"/>	Probate _____
Employment/Labor _____	Products Liability _____
Family _____	Real Property <input checked="" type="checkbox"/>
Custody _____	Securities _____
Property Division _____	Tax _____
Termination _____	U.C.C./Tex. Bus. & Com. Code _____
Other _____	Venue _____
Fraud _____	Workers' compensation _____
Insurance _____	Other (specify): _____
Juvenile _____	
Landlord/Tenant _____	

VIII. Supersedeas Bond (TRAP 32.1(1)):	None <input type="checkbox"/>	Will file <input checked="" type="checkbox"/>	Was filed on:
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IX. Extraordinary Relief: Will you request extraordinary relief (e.g., temporary or ancillary relief) from this Court? Yes ☒ No ☐ If yes, briefly state the basis for your request.

Appellant has filed a Motion to Suspend Enforcement of Judgment with the trial court (set for hearing on February 17, 2017). The trial court's judgment determined that Appellant's contract for deed was converted to a month to month lease, and Appellees' are now seeking to use the court's judgment to evict appellant from her home.

In the event that the trial court denies that Motion or fails to take appropriate action ensuring the status quo during the pendency of the appeal, Appellant may request extraordinary relief from this Court.

X. Alternative Dispute Resolution/Mediation (if applicable) (The Tenth Court of Appeals participates in the ADR process on cases determined to be appropriate for mediation. To assist the Court in making that determination, the Court request the parties provide the following information)). (Use additional sheets, if necessary)

1. Should this appeal be referred to mediation? If not, why not.

Appellant does not believe that mediation would aid in the resolution of this case.

2. Has the case been through an ADR procedure in the trial court?

If yes, answer the following: **No.**

a. Who was the mediator?

b. What type of ADR procedure?

c. At what stage did the case go through ADR? (Specify pre-trial, trial, post-trial, other)

d. Rate the case for complexity. Use 1 for the least complex and 5 for the most complex. Circle one.

1 2 3 4 5

e. Can the parties agree on an appellate mediator? If yes, give name, address, and telephone and fax numbers (with area codes).

f. Languages other than English in which the mediator should be proficient:

3. Give a brief description of the issues to be raised on appeal, the relief sought, and the applicable standard of review, **if known** (without prejudice to the right to raise additional issues or request additional relief; use a separate attachment, if necessary).

The trial court's judgment that "the contract for deed that is the basis of this suit lapsed ... [and] the parties were subject to a month to month lease" was incorrect as a matter of law. The standard of review is de novo.

Appellant reserves the right to raise additional issues and information (including relief sought) in her appeal.

XI. Related Matters:

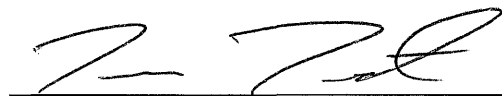
List any pending or past related **appeals or original proceedings** (e.g., mandamus, injunction, habeas corpus) before this or any other Texas appellate court by court, docket number, and style.

None.

XII. Other Information:

Please give any other information helpful to process this appeal (see attachments, if any).

XIII. Signature:



Signature of counsel
(or pro se party)

Date: 2-8-17

State Bar No.: 24088501

Printed Name: Tyler Bass Talbert

XIV. Certificate of Service:

The undersigned counsel certifies that this docketing statement has been served on the following lead counsel for all parties to the trial court's order or judgment as follows on **February 8**, 2017.



Signature


(TRAP 9.5(e) requirements stated below; use additional sheets, if necessary)

Note: Certificate of Service Requirements (TRAP 9.5(e)): A certificate of service must be signed by the person who made the service and must state:

- (1) the date and manner of service;
- (2) the name and address of each person served; and
- (3) if the person served is a party's attorney, the name of the party represented by that attorney.

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the above and foregoing document was served upon all counsel of record in this cause, as listed below, via electronic transmission and fax, in accordance with the Texas Rules of Civil Procedure and Texas Rules of Appellate Procedure on this, the 8th day of February, 2017.


Tyler Talbert

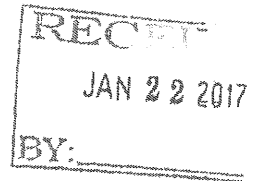
Laura Upchurch
Moorman Tate Haley Upchurch & Yates, LLP
207 East Main Street
Brenham, Texas 77833
FAX (979) 830-0913

*Counsel for Defendants
Rebecca Ann Stifflemire
And Larry Stifflemire*

Michelle Lehmkuhl
200 Josie Lane
Rockdale, Texas 76567
FAX (512) 4469528

*Trial Counsel for Plaintiff
Sandra K. Bullard*

Exhibit A



**NOTICE: THIS DOCUMENT
CONTAINS SENSITIVE DATA**

CAUSE NO. 28,310

**SANDRA K. BULLARD,
PLAINTIFF**

VS.

**REBECCA ANN STIFFLEMIRE
AND LARRY STIFFLEMIRE,
DEFENDANTS**

§ **IN THE DISTRICT COURT**
§
§
§ **21ST JUDICIAL DISTRICT**
§
§
§ **BURLESON COUNTY, TEXAS**

FINAL JUDGMENT

On December 16, 2016, this cause came to be heard by the Court.

Sandra K. Bullard, Plaintiff, appeared in person and by attorney of record, Michelle Lehmkuhl, and announced ready for trial.

Rebecca Ann Stifflemire and Larry Stifflemire, Defendants, appeared in person and by attorney of record, Laura Upchurch, and announced ready for trial.

No jury having been demanded, all questions of fact were submitted to the court.

The court, after hearing the evidence and arguments of counsel, is of the opinion that the contract for deed that is the basis of this suit lapsed on May 1, 1995 and that as of May 1, 1995, the parties were subject to a month-to-month lease.

With regard to the alternate claim of Plaintiff, the Court finds that Plaintiff should take nothing by this suit.

The Court further finds that the Defendant should take nothing on Defendant's claim for sanctions.

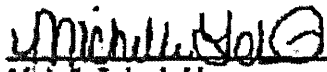
All costs of court spent or incurred in this cause are adjudged against the party incurring same.

All relief requested in this case and not expressly granted is denied. This judgment finally disposes of all parties and claims and is appealable.

SIGNED on January 17th, 2017.


JUDGE PRESIDING

APPROVED AS TO FORM:


Michelle Lehmkuhl
Texas Bar No. 24036964
200 Josie Lane
Rockdale, Texas 76567
Tel: (512) 446-9529
Fax: (512) 446-9528
E-mail: michelle@milamcountylaw.com
Attorney for Plaintiff

FILED 11:40 A.M.
DATE 1-18-17
Dana Fritsche
District Clerk, Burleson County
By Rennie Lewis

MOORMAN TATE HALEY UPCHURCH & YATES, LLP



Laura Upchurch
Texas Bar No. 00785131
207 East Main
P.O. Box 1808
Brenham, Texas 77834-1808
Tel: (979) 836-5664
Fax: (979) 830-0913
E-mail: upchurch@moorman-tate.com
Attorney for Defendants

Exhibit B

CAUSE NO. 28,310

SANDRA K. BULLARD,
PLAINTIFF

VS.

REBECCA ANN STIFFLEMIRE
AND LARRY STIFFLEMIRE,
DEFENDANTS

§
§
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§
§
§
§

IN THE DISTRICT COURT

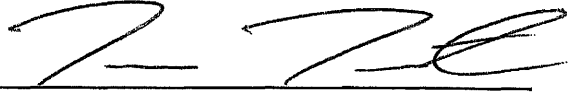
21ST JUDICIAL DISTRICT

BURLESON COUNTY, TEXAS

PLAINTIFF'S NOTICE OF APPEAL

Sandra K. Bullard, Plaintiff in the above-captioned case, desires to appeal the Final Judgment signed by Judge Carson Campbell of the 21st Judicial District of Burleson County, Texas, on January 17, 2017. A true and correct copy of the Final Judgment is attached hereto as Exhibit A. The appeal is taken to the Tenth Court of Appeals. Plaintiff timely files this Notice of Appeal, pursuant to TEX. R. CIV. P. 26.1, within 30 days after the Judgment was signed and within 90 days after Plaintiff filed her Request for Findings of Fact and Conclusions of Law.

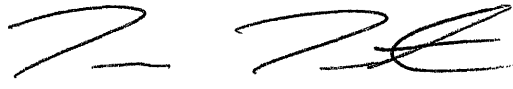
SCANES & ROUTH, LLP
7901 Fish Pond Road, Suite 200
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Waco, Texas 76702-0965
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(254) 399-8780 FAX

BY: 
Tyler Talbert
Texas Bar No. 24088501
talbert@scanesrouth.com

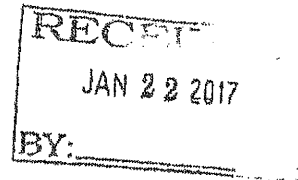
ATTORNEY FOR PLAINTIFF

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the above and foregoing document was served upon all counsel of record in this cause in accordance with the Texas Rules of Civil Procedure on this, the 27th day of January, 2017.


Tyler Talbert

**NOTICE: THIS DOCUMENT
CONTAINS SENSITIVE DATA**



CAUSE NO. 28,310

**SANDRA K. BULLARD,
PLAINTIFF**

VS.

**REBECCA ANN STIFFLEMIRE
AND LARRY STIFFLEMIRE,
DEFENDANTS**

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IN THE DISTRICT COURT

21ST JUDICIAL DISTRICT

BURLESON COUNTY, TEXAS

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With regard to the alternate claim of Plaintiff, the Court finds that Plaintiff should take nothing by this suit.

The Court further finds that the Defendant should take nothing on Defendant's claim for sanctions.


All costs of court spent or incurred in this cause are adjudged against the party incurring same.

All relief requested in this case and not expressly granted is denied. This judgment finally disposes of all parties and claims and is appealable.

SIGNED on January 17th, 2017



JUDGE PRESIDING

APPROVED AS TO FORM:


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Attorney for Plaintiff

FILED 11:40 A.M.
DATE 1-18-17
Dana Fritsche
District Clerk, Burleson County
By Reenie Lewis

MOORMAN TATE HALEY UPCHURCH & YATES, LLP


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Attorney for Defendants